

1984 *25 Years* 2009

Ms. Crump's Direct Line: (512) 322-5832  
Email: gcrump@lglawfirm.com

December 3, 2009

**VIA HAND DELIVERY**

LaDonna Castañuela  
Office of Chief Clerk (MC-105)  
Texas Commission on Environmental Quality  
120150 Park 35 Circle, Building F, 1st Floor  
Austin, Texas 78753

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2009 DEC -3 AM 10:53  
CHIEF CLERKS OFFICE


Re: SOAH Docket No. 582-09-6172; TCEQ Docket No. 2009-1224-  
UCR, *Petition of Bolivar Water Supply Corporation, CCN No. 11257,*  
*Requesting a Cease and Desist Order Against the City of Denton*

Dear Ms. Castañuela:

Enclosed is the City of Denton's Exceptions to the Proposal for Decision. Please file stamp the extra copies provided and return via our messenger.

If you need any additional information, please do not hesitate to contact me.

Sincerely,

  
Georgia N. Crump  
Attorney for City of Denton

GNC/jmc  
1060\33\ltr091203

Enclosure

cc: Mark Zeppa *via Facsimile*  
Brian MacLeod *via Facsimile*  
Blas Coy, Jr. *via Facsimile*  
SOAH Docket Clerk *via Hand Delivery*

**SOAH DOCKET NO. 582-09-6172  
TCEQ DOCKET NO. 2009-1224-UCR**

**PETITION OF BOLIVAR WATER  
SUPPLY CORPORATION, CCN  
NO. 11257, REQUESTING A CEASE  
AND DESIST ORDER AGAINST  
THE CITY OF DENTON**

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**BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS**

**TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2009 DEC 23 AM 11:02  
CHIEF CLERKS OFFICE**

**THE CITY OF DENTON'S  
EXCEPTIONS TO THE PROPOSAL FOR DECISION**

TO THE HONORABLE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

COMES NOW the City of Denton ("City"), and files its Exceptions to the Proposal for Decision in the above-referenced matter, and in support hereof respectfully shows the following:

**EXCEPTIONS TO THE PROPOSAL FOR DECISION**

The City of Denton is in agreement with and supports the conclusion of the Administrative Law Judge in his Proposal for Decision ("PFD"), namely that the Petition for a Cease and Desist Order by Bolivar Water Supply Corporation ("Bolivar") should be dismissed. Therefore, the City offers no exceptions to that recommendation. However, the City offers the following modifications to two proposed Conclusions of Law ("COL") in the Proposed Order in order to clarify and support the Judge's recommendation.

Specifically, Conclusions of Law Nos. 1 and 4 should be replaced in their entirety with the following language:

- COL 1. Bolivar and Denton are each a "retail public utility" as that term is defined in Tex. Water Code § 13.002(19).
- COL 4. Bolivar has failed to show facts that Denton has taken an action that could authorize the Commission to issue a cease and desist order under Tex. Water Code § 13.252 to Denton prohibiting the construction, extension, or provision of service or prescribing terms and conditions for locating the line, plant, or system

affected or for the provision of the service. Specifically, Bolivar has not provided facts demonstrating that Denton: (i) in constructing or extending a water line, plant, or system has interfered or attempted to interfere with the operation of Bolivar's water line, plant, or system; or (ii) has furnished, made available, rendered, or extended retail water utility service to any portion of Bolivar's service area as authorized under its water Certificate of Convenience and Necessity No. 11257.

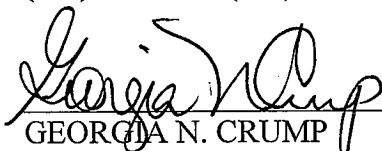
**PRAYER**

The City respectfully requests that the Commission modify the Administrative Law Judge's proposed Conclusions of Law as recommended by the City, and adopt the Proposed Order, as modified.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE  
& TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
(512) 322-5800  
(512) 472-0532 (Fax)

  
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GEORGIA N. CRUMP  
State Bar No. 05185500

DAVID J. KLEIN  
State Bar No. 24041257

**ATTORNEYS FOR THE CITY OF DENTON**

### CERTIFICATE OF SERVICE

I hereby certify that on this the 3rd day of December 2009, a true and correct copy of the *City of Denton's Exceptions to the Proposal for Decision* has been served on all parties of record in this proceeding by hand delivery, First Class Mail, or facsimile transmission to the persons listed below:

The Honorable William G. Newchurch  
Administrative Law Judge  
300 West Fifteenth St., Room 504  
Austin, Texas 78701  
512-475-4994 (fax)

State Office of Administrative Hearings

Brian MacLeod, Staff Attorney  
Texas Commission on Environmental Quality  
P.O. Box 13087 – (MC 173)  
Austin, Texas 78711-3087  
512-239-0606 (fax)

Representing the Executive Director of the  
TCEQ

Blas Coy  
Office of Public Interest Counsel  
Texas Commission on Environmental Quality  
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Representing the Office of Public Interest  
Counsel of the TCEQ

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4833 Spicewood Springs Road , #202  
Austin, Texas 78759-8436  
512-346-6847 (fax)

Representing Bolivar Water Supply  
Corporation

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Chief Clerk  
Texas Commission on Environmental Quality  
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Office of the Chief Clerk of the TCEQ

  
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GEORGIA N. CRUMP

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2009 DEC -3 AM 11:04  
CHIEF CLERKS OFFICE